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Attorneys for Plaintiff
ESTABAN MARVILLA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CARL PHILLIPS, on behalf of himself and all
others similarly situated

Plaintiff,

v.

SEARS, ROEBUCK & COMPANY, et al.,

Defendants.

This document relates to:

ESTABAN MARVILLA, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

SEARS, ROEBUCK & COMPANY, et al.

Defendants.

Case No.: 08-CV-02671 SBA

**ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED (Civil Local
Rule 3-12)**

Case No.: 08-CV-03202 MHP

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD

PLEASE TAKE NOTICE that a related case, Estaban Marvilla v. Sears, Roebuck & Company, et al. ("Marvilla") was filed on July 3, 2008, in the United States District Court for the Northern District of California. Pursuant to Civil Local Rules 3-12(b) of the United States District Court of the Northern District of California, Plaintiff Estaban Marvilla ("Plaintiff") submits this Administrative Motion to Consider Whether Cases Should Be Related to the Carl Phillips v. Sears, Roebuck & Company, et al. Case Number: 08-CV-2671 SBA, filed May 28, 2008, the low number action also pending in this District. That this action be assigned to the Honorable Sandra Brown Armstrong.

These actions involve substantially the same transactions, events, questions of law, and allege essentially the same violations of federal and California state marketing and sales practice law and violations of California Unfair competition law against substantially the same defendants. These actions allege that defendants have defrauded the public by: 1) Misrepresenting and significantly overstating the horsepower produced by such products; 2) Concealing, suppressing and failing to disclose material information, including the true, significantly lower horsepower of Defendants' products; and 3) Falsely advertising and selling lawn mowers at different prices containing identical engines that produce the same horsepower as different products with different horsepower labels or ratings --- higher prices for falsely represented higher horsepower ---- while concealing, suppressing and failing to disclose material information, including the fact that the engines are identical and the significantly lower horsepower of the lawn mowers. These actions assert substantially the same rights on behalf of consumers who purchased lawn mowers manufactured by defendants.

It appears likely there will be an unduly burdensome duplication of labor and expense and potentially conflicting results if the cases are hear before different judges.

Given the similarities of these actions, assignment of these cases to a single Federal District Court Judge will conserve judicial resources and promote efficient determination of the actions while avoiding potentially conflicting results. The same efficiencies will occur if the Court relates Marvilla to Carl Phillips v. Sears Roebuck & Company. Both cases pending in this District are at a

1 preliminary state and, thus, assignment to a single judge would not prejudice any of the parties.
2 Accordingly, Plaintiff Estaban Marvilla respectfully request that the action entitled Marvilla v.
3 Sears, Roebuck & Company, et al be deemed related to Carl Phillips v. Sears, Roebuck &
4 Company, the first filed case in this District and that is presently assigned to the Honorable Sandra
5 Brown Armstrong.

6 DATED: 8/19/08

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